

CIVIL RULE 54.2
AWARD OF ATTORNEY FEES

(a) Claims for attorney fees will not be treated as routine items of costs. Attorney fees will only be allowed upon an order of a judge of the Court after such fact-finding process as the judge orders.

(b) Within fourteen (14) days after entry of judgment under which attorney fees may be claimed, a party claiming the right to allowance of attorney fees may file and serve a petition for such allowance. The petition must state the amount claimed and cite the legal authority relied on. The petition must be accompanied by an affidavit of counsel setting forth the following: (1) date(s), (2) service(s) rendered, (3) hourly rate, (4) hours expended, (5) a statement of attorney fee contract with the client, and (6) information, where appropriate, as to other factors which might assist the Court in determining the dollar amount of fee to be allowed. Petitions for attorney fees and cost bills must be filed as separate documents. Failure to comply with this requirement will result in delay in processing.

(c) Within **twenty-one (21)** ~~fourteen (14)~~ days after receipt of a party's petition for allowance of attorney fees, any other party may serve and file objections to the allowance of fees or any portion thereof. The objecting party must set forth specific grounds of objection.

~~*Technical Amendments made on March 31, 2005~~

RELATED AUTHORITY

Fed. R. Civ. P. 54(d)(2)

CIVIL RULE 72.1 MAGISTRATE JUDGE RULES

(a) Authority of United States Magistrate Judges.

(1) Authorized Magistrate Judge Duties. All United States magistrate judges of this Court are authorized to perform the duties prescribed by 28 U.S.C. § 636(a), (b), (c), and (g).

(2) Prisoner Cases Under 28 U.S.C. §§ 2254 and 2255. **Upon referral by a district judge a** ~~The~~ magistrate judge may perform any or all of the duties imposed upon a **district** judge by the rules governing proceedings in the United States District Courts under § 2254 ~~and § 2255~~ of Title 28, United States Code. In so doing, the magistrate judge may issue any preliminary orders and conduct any necessary evidentiary hearing or other appropriate proceedings and must submit to a district judge a report containing proposed findings of fact and recommendations for disposition of the petition ~~or motion~~ by the **district** judge except in cases where the death penalty has been imposed; in which case, the district judge will conduct **any** ~~the~~ evidentiary hearing, ~~if necessary or other appropriate proceeding~~. Any order disposing of the ~~petition or motion~~ may only be made by a district judge.

(3) Prisoner Cases Under 42 U.S.C. § 1983. **Upon referral by a district judge a** ~~The~~ magistrate judge may issue any preliminary orders and conduct any necessary evidentiary hearing or other appropriate proceedings and must submit to a district judge a report containing proposed findings of fact and recommendations for the disposition of petitions or complaints filed by prisoners challenging the conditions of their confinement.

~~(4) Special Master References. A magistrate judge may be designated by a district judge to serve as a special master in appropriate civil cases in accordance with 28 U.S.C. § 636(b)(2) and Federal Rules of Civil Procedure 53(b) and 54.~~

~~————— (5) Preliminary Proceedings in Probation Cases. Magistrate judges may conduct preliminary proceedings in probation matters pursuant to Federal Rule of Criminal Procedure 32.1.~~

~~(4)~~(6) Other Authorized Duties. A magistrate judge is also authorized to:

~~(A) — Exercise general supervision of civil and criminal calendars, conduct calendar and status calls, and determine motions to expedite or postpone the trial of cases for the judges;~~

~~(A)~~(B) Conduct **any pretrial matters, such as** pretrial conferences, settlement conferences, omnibus hearings, and related ~~pretrial~~ proceedings in civil ~~and criminal~~ cases **upon the referral by a district judge**;

~~(C) — Preside over all arraignments before the District Court, accept pleas of not guilty, establish the times within which all pretrial motions will be filed and responded to, and fix trial dates. If a plea of guilty or nolo contendere is offered, the matter will be forthwith calendared before a district judge;~~

~~_____ (D) _____ Impanel the grand jury, preside when the grand jury reports, and accept for the Court any indictments returned, issue warrants and summonses as appropriate, and establish the terms of release pending trial, continue the same if previously fixed or modify the terms of release as he or she sees fit;~~

~~_____ (E) _____ Accept waivers of indictment, pursuant to Federal Rule of Criminal Procedure 7(b);~~

~~(B)(F)~~ Conduct voir dire and select petit juries in a civil cases assigned to a district judge, with the consent of the parties; **and**

~~(C)(G)~~ Accept petit jury verdicts in civil and criminal cases at the request of a district judge. ~~and fix dates for imposition of sentence;~~

~~(H) _____ Issue subpoenas, writs of habeas corpus ad testificandum or habeas corpus ad prosequendum, or other orders necessary to obtain the presence of parties, witnesses or evidence needed for Court proceedings;~~

~~_____ (I) _____ Order the exoneration or forfeiture of bonds;~~

~~_____ (J) _____ Fix the terms of release pending appeal to the Court of Appeals;~~

~~_____ (K) _____ Conduct examinations of judgment debtors in accordance with Federal Rule of Civil Procedure 69; and~~

~~_____ (L) _____ Perform any additional duty that is not inconsistent with the Constitution and laws of the United States.~~

(b) Objections to Magistrate Judge's Orders, Reports, and Recommendations.

(1) Nondispositive Matters - 28 U.S.C. § 636(b)(1)(A). Pursuant to Fed. R. Civ. P. 72(a), a party may serve and file any objections, not to exceed twenty (20) pages, to a magistrate judge's order within ten (10) days after being served with a copy of the order, unless the magistrate judge or district judge sets a different time period. A party may serve and file a response, not to exceed ten (10) pages, to another party's objections within ten (10) days after being served with a copy thereof. The district judge may also consider sua sponte any order by a magistrate judge found to be clearly erroneous or contrary to law.

~~(1) Nondispositive Matter - 28 U.S.C. § 636(b)(1)(A). When a pretrial matter not dispositive of a claim or defense of a party is referred to a magistrate judge pursuant to 28 U.S.C. § 636(b)(1)(A), the magistrate judge will conduct such proceedings as are required and when appropriate enter a written order setting forth its ruling on the matter.~~

~~_____ A party must serve and file any objections, not to exceed twenty (20) pages, to such order within ten (10) days after being served with a copy of the magistrate judge's order, unless a different time period is set by the magistrate or district judge. A party waives his or her right to assign as error any defect in the magistrate judge's order to which a timely objection has not been filed. A~~

~~party may respond to another party's objections within ten (10) days after being served with a copy thereof. The district judge to whom the case is assigned will consider such objections and modify or set aside any portion of the order found to be clearly erroneous or contrary to law. The district judge may also consider sua sponte any order found to be clearly erroneous or contrary to law. [Fed. R. Civ. P. 72(a)].~~

(2) Dispositive Matters - 28 U.S.C. § 636(b)(1)(B). When a pretrial matter dispositive of a claim or defense of a party, a post-trial motion for attorney fees, or a prisoner petition is referred to a magistrate judge without consent of the parties pursuant to 28 U.S.C. § 636(b)(1)(B), the magistrate judge will conduct such proceedings as required. The magistrate judge will enter a **report and** recommendation for disposition of the matter, including proposed findings of fact when appropriate.

Pursuant to Fed. R. Civ. P. 72(a), a ~~A~~ party objecting to the recommended disposition of the matter must serve and file specific, written objections, not to exceed twenty ~~(20)~~ pages, to the proposed findings and recommendations within ten (10) days after being served with a copy of the magistrate judge's report and recommendation, **unless the magistrate or district judge sets a different time period. A party may serve and file a response, not to exceed ten pages, to another party's objections within ten (10) days after being served with a copy thereof.** ~~A party may respond to another party's objections within ten (10) days after being served with a copy thereof.~~ The district judge to whom the case is assigned will make a de novo determination of any portion of the magistrate judge's recommended disposition to which specific objection has been made. The district judge may also consider sua sponte any portion of the proposed disposition. The district judge may accept, reject, or modify the recommended disposition, receive further evidence, or recommit the matter to the magistrate judge with directions.

~~(3) Special Master Reports--28 U.S.C. § 636(b)(2). Any party may seek review of, or action on, a special master report filed by a magistrate judge in accordance with the provisions of Federal Rule of Civil Procedure 53(e).~~

~~*Technical Amendments made on March 31, 2005~~

RELATED AUTHORITY

Fed. R. Civ. P. 72
Fed. R. Civ. P. 54(d)(2)(D)
Fed. R. Civ. P. 53(e)

CIVIL RULE 83.4 BAR ADMISSION

(a) Admission to the Bar of this Court. Admission to and continuing membership in the bar of this Court is limited to attorneys of good moral character who are active members in good standing of the Idaho State Bar. Each applicant for admission must present to the Clerk a written petition for admission stating the applicant's residence and office addresses and by what courts he or she has been admitted to practice and the respective dates of admission to those courts. ~~The petition must be accompanied by a certificate of a member of the bar of this Court, stating that the bar member knows the applicant and can affirm that the applicant is of good moral character.~~ Upon qualification, the applicant may be admitted upon written or oral motion as determined by the Court. Before any certificate of admission shall issue, the applicant must sign the prescribed oath. Generally, the applicant must personally appear before the Court; however, in exceptional circumstances the Court may waive this requirement.

(b) Practice in this Court. Except as herein otherwise provided, only members of the bar of this Court may practice in this Court. Only a member of the bar of this Court may appear for a party, sign stipulations, or receive payment or enter satisfactions of judgment, decree, or order.

(c) Attorneys for the United States and Federal Defender Organizations. An attorney who is not eligible for admission under Dist. Idaho Loc. Civ. R. 83.4 hereof, but who is a member in good standing of and eligible to practice before the bar of any United States Court or of the highest court of any state or of any territory or of any insular possession of the United States, and who is of good moral character, may practice in this Court in any matter in which the attorney is employed or retained by the United States or its agencies and is representing the United States or any of its officers or agencies or in which the attorney is part of a federal defender organization and is appointed by the Court to represent a criminal defendant. (Dist. Idaho Loc. Crim. R. 44.1). Attorneys so permitted to practice in this Court are subject to the jurisdiction of the Court with respect to their conduct to the same extent as members of the bar of this Court.

(d) Appearance by Entities Other Than an Individual. Whenever an entity other than an individual desires or is required to make an appearance in this Court, the appearance shall be made only by an attorney of the bar of this Court or an attorney permitted to practice under these rules.

***(effective May 15, 2006)**

***(e) Pro Hac Vice/Local Counsel.** An attorney not eligible for admission under Dist. Idaho Loc. Civ. R. 83.4(a) hereof, but who is a member in good standing of and eligible to practice before the bar of any United States Court or of the highest court of any state or of any territory or insular possession of the United States, who is of good moral character, and who has been retained to appear in this Court, may, upon written application and in the discretion of the Court, be permitted to appear and participate in a particular case, and no certificate of admission must be issued by the Clerk.

The attorney filing pro hac vice must first (1) designate a member of the bar of this Court who maintains an office within this Court as co-counsel with the authority to act as attorney of record for all purposes, and (2) file with such designation the address, telephone number, and written consent of such designee. Designated local counsel shall be responsible both for filing the pro hac vice application through ECF and for payment of the prescribed fee. The pro hac vice application must be presented to the Clerk and must state under penalty of perjury (1) the attorney's residence and office addresses, (2) by what court(s) the attorney has been admitted to practice and the date(s) of admission, (3) that the attorney is in good standing and eligible to practice in said court(s), and (4) that the attorney is not currently suspended or disbarred in any other court(s). Upon the electronic filing of the pro hac vice application and payment of fees by designated local counsel, and granting of the application by the Court, out-of-state counsel shall immediately register for ECF.

Absent Court approval, an attorney who has been admitted pro hac vice for a particular case and received an ECF login and password, may not use these in a subsequent, unrelated case.

All pleadings filed with the Clerk of Court must contain the names and addresses and original signatures of the attorney appearing pro hac vice and associated local counsel.

The designee must personally appear with the attorney on all matters heard and tried before this Court unless such presence is excused by the Court.

(f) Non-Appropriated Fund.

(1) Attorneys admitted to the bar of this Court under the conditions prescribed in Dist. Idaho Loc. Civ. R. 83.4 must be required to pay to the Clerk of Court an admission fee in accordance with Appendix I.

(2) Attorneys not admitted to the bar of this Court who, upon the filing of a verified petition for permission to practice in an individual case, are admitted under the conditions prescribed in Dist. Idaho Loc. Civ. R. 83.4(e), must be required to pay a fee in accordance with Appendix I.

(3) Monies deposited into the Non-Appropriated Fund must be used for purposes which inure to the benefit of members of the bench and bar of this Court in the administration of justice.

(g) Legal Interns. At the discretion of the presiding judge, a legal intern who possesses a limited license issued by the Idaho State Bar, may appear before the District Court in the presence of a supervising attorney, who shall be an attorney licensed to practice before this court.

(h) Notice of Change of Status. An attorney who is a member of the bar of this Court or who has been permitted to practice in this Court under Dist. Idaho Loc. Civ. R. 83.4 hereof must promptly notify the Court of any change in his or her status in another jurisdiction which would make him or her ineligible for membership in the bar of this Court under Local Rule 83.4. In the event the attorney is no longer eligible to practice in another jurisdiction by reason of his or her

suspension for nonpayment of fees or enrollment as an inactive member, he or she will forthwith be suspended from practice before this Court without any order of Court and until he or she becomes eligible to practice in such other jurisdiction.

RELATED AUTHORITY

General Order No. 161

CIVIL RULE 83.5
ATTORNEY DISCIPLINE

(a) Standard of Professional Conduct. All members of the bar of the District Court and the Bankruptcy Court for the District of Idaho (hereafter the “Court”) and all attorneys permitted to practice in this Court must familiarize themselves with and comply with the Idaho Rules of Professional Conduct of the Idaho State Bar and decisions of any court interpreting such rules. These provisions are adopted as the standards of professional conduct for this Court but must not be interpreted to be exhaustive of the standards of professional conduct. No attorney permitted to practice before this court will engage in any conduct which degrades or impugns the integrity of the Court or in any manner interferes with the administration of justice therein.

(b) Discipline.

(1) General authority of the Court, and conduct subject to discipline.

This Court may impose discipline on any attorney practicing before this Court, whether or not a member of the bar of this Court, who engages in conduct violating the Idaho Rules of Professional Conduct, or who fails to comply with rules or orders of this Court. The discipline may consist of disbarment from practice before this Court, suspension, reprimand, or any other action that the Court deems appropriate and just. In the event any attorney engages in conduct which may warrant discipline or other sanctions, the Court may, in addition to initiating proceedings for contempt under Title 18, United States Code, and Federal Rule of Criminal Procedure 42, or imposing other appropriate sanctions pursuant to the Court’s inherent powers and/or the Federal Rules of Civil, Bankruptcy or Criminal Procedure, initiate a disciplinary process under section (b)(2) - (4) of this rule, and/or refer the matter under section (b)(8) of this rule.

(2) Conviction of felony or serious crime. Any attorney admitted to practice in this Court who is convicted of a felony or other “serious crime” as defined in Idaho Bar Commission Rule 501(s), in any court of the United States, of the District of Columbia, or of any state, territory, commonwealth, or possession of the United States, has the duty and obligation to report such conviction to this Court within fourteen (14) days of its entry. Upon receiving notice of an attorney’s conviction of a felony or other serious crime, whether received from the attorney, another court or its clerk, or otherwise, such attorney will be immediately suspended from practice before this Court, whether the conviction resulted from a plea of guilty or nolo contendere, or from a verdict after trial, or otherwise.

(a) Pending appeal. The Court will issue an order to show cause at the time of suspension directing the suspended attorney to demonstrate within thirty (30) days from the date of such order why the attorney should be reinstated to practice before the Court during the pendency of any appeal.

(b) Finality of conviction, and disbarment. Upon the conviction becoming final and the Court being informed thereof, the Court will issue an order to show cause directing the suspended attorney to demonstrate within thirty (30) days from the date of such order why the suspension under section (b)(2) of this rule shall not be made permanent and why the Court should not enter an order of disbarment.

(3) Reciprocal discipline (disbarment, suspension or other discipline by any other court). Upon the receipt by this Court of a certified copy of a judgment or order showing that any attorney admitted to practice before this Court has been suspended, disbarred or otherwise disciplined by any other court of the United States or the District of Columbia, or of any state, territory, commonwealth or possession of the United States (hereafter the "supervising court"), or has resigned in lieu of discipline, this Court will review the judgment and order and determine whether similar discipline should be imposed by this Court.

(a) Order imposing discipline and allowing response. If the Court decides that similar discipline is warranted, an order of discipline and conjoined order to show cause will issue advising the disciplined attorney that (1) he or she is immediately subject to the same discipline as imposed by the supervising court and, if such discipline includes suspension or disbarment, may only be reinstated to practice before this Court as hereinafter provided, and (2) if the disciplined attorney contends that meritorious reasons exist why the disciplined attorney should not be subject to the same discipline by this Court as imposed by the supervising court, the disciplined attorney must file within thirty (30) days of this Court's order, a petition to set aside the discipline and/or be reinstated to practice in this Court. The petition must clearly demonstrate or this Court otherwise find: (i) the procedure in the supervising court was so lacking in notice or opportunity to be heard as to constitute a deprivation of due process; (ii) there was such an absence of proof establishing misconduct that this Court would not accept as final the conclusions reached by the supervising court; (iii) the imposition of the disciplinary action stated in the order of the supervising court would otherwise result in a grave injustice; or (iv) the misconduct warrants discipline substantially different from that stated in the order of the supervising court.

(b) Wind-up. Unless otherwise ordered, the disciplined attorney will have fourteen (14) days after the date of the Order described in this section to wind-up and complete on behalf of any client, all matters pending on the date of the entry of such order.

(4) Original (non-reciprocal) disciplinary proceedings.

(a) Initiation of proceedings. Whenever a district, magistrate or bankruptcy judge of this district believes that conduct of an attorney may warrant disbarment, suspension, reprimand or other discipline by this Court, other than those matters addressed in sections (b)(1), (2) and (3) of this rule, such judge may issue a written report and recommendation for the initiation of disciplinary proceedings (the "recommendation"). The chief district judge, or another district judge if the chief district judge is the judge recommending such action (hereafter the "reviewing judge"), shall review the recommendation to determine if reasonable grounds exist for the initiation of disciplinary proceedings. If the reviewing judge determines that disciplinary proceedings should be initiated, the reviewing judge shall issue an order to show cause under this rule that identifies the basis for and nature of possible discipline.

(b) Response. An attorney against whom an order to show cause is issued under this section shall have thirty (30) days from the date of the order in which to file a response. The attorney may include in the response (i) a request to submit the matter on the recommendation, affidavits, briefs, and the record, or (ii) for a hearing, whether in-person, telephonic, or by video. The failure to include a request for a hearing will be deemed a waiver of any right to a hearing. The

failure to file a timely response may result in the imposition of discipline by the Court without further notice.

(c) Hearing on disciplinary charges. If requested by the attorney, a hearing shall be conducted on the disciplinary charges. If a hearing is not requested, the matter shall be determined by the reviewing judge on the record submitted to him or her. At any hearing under this rule, the attorney may be represented by counsel who shall file a notice of appearance with the reviewing judge and with any attorney appointed by the Court to prosecute the matter under section (b)(4)(d) of this rule.

(d) Appointment of counsel to prosecute charges. In appropriate cases, the reviewing judge may appoint an attorney to prosecute charges of misconduct and shall provide notice of that appointment to the attorney and his counsel, if any. The Court may solicit recommendations from the Lawyer Representatives of the District of Idaho as to an appropriate appointment. Actual out-of-pocket costs incurred by the attorney prosecuting the charges will be reimbursed from the non-appropriated fund after review and approval by the Board of Judges.

(e) Determination, and entry of order. Upon the completion of hearing, if any, and its review of the record, the reviewing judge shall prepare a proposed determination which shall be served on the attorney, and his or her counsel if any. The attorney shall have ten (10) days from the service of the proposed determination within which to file a reply. If the attorney files a reply, the proposed determination, reply and any record developed shall be presented to a randomly drawn three judge panel of the district, magistrate and bankruptcy judges of this Court, other than the initially complaining judge and the reviewing judge. In its discretion, the panel may call for further submissions or hearing. The final order in a disciplinary proceeding where such a reply has been filed by the attorney, shall be by the panel. In the absence of a reply, the proposed determination shall be entered as the final order.

(5) Reinstatement. To be readmitted, a suspended or disbarred attorney must file a petition for reinstatement with the clerk of this Court. The petition shall contain a concise statement of the circumstances of the disciplinary proceedings, the discipline imposed by the Court, and the grounds that justify reinstatement of the attorney. If this Court has imposed reciprocal discipline under section (b)(3) of this rule, and if the attorney has been readmitted by the supervising court or the discipline imposed by that supervising court has been modified or satisfied, the petition shall explain the situation with specificity, including description of any restrictions or conditions imposed on readmission by that supervising court. The petition shall be referred to the chief district judge, or another district judge at the chief district judge's discretion, who will file a proposed determination. The provisions of section (b)(4)(e) of this rule will govern determination and entry of decision on the petition for reinstatement.

(6) Confidentiality. All proceedings under this rule shall be public, except upon an order entered upon a showing of good cause that sealing all or part of the record is appropriate. The Court may make such determination and enter such an order *sua sponte*.

(7) Non-limiting effect of rule. Nothing in this rule shall limit the power of an individual judge to impose sanctions as authorized under applicable law including the Federal Rules of Civil, Bankruptcy or Criminal Procedure. Nothing in this rule is intended to limit the inherent

authority of any judge of this court to suspend an attorney from practicing before that judge on a case by case basis, after appropriate notice and an opportunity to be heard.

(8) Referral to other courts and entities. This rule does not restrict the Court or any judge thereof from referring an attorney or a matter to any other court or to any bar association for investigation and/or disciplinary action.

Related Authority and Notes

Idaho Bar Commission Rule 512(b) requires notification of conviction as is provided in section (b)(2) of this rule.

Idaho Bar Commission Rule 517(d) provides a period similar to that set forth in section (b)(3)(B) of this rule.

CIVIL RULE 83.5
ATTORNEY DISCIPLINE

~~—————(a)———~~ **Standard of Professional Conduct.** All members of the bar of this court and all attorneys permitted to practice in this court must familiarize themselves with and comply with the Idaho Rules of Professional Conduct of the Idaho State Bar and decisions of any court interpreting such rules. These provisions are adopted as the standards of professional conduct for this court but must not be interpreted to be exhaustive of the standards of professional conduct. No attorney permitted to practice before this court will engage in any conduct which degrades or impugns the integrity of the court or in any manner interferes with the administration of justice therein.

~~—————(1)———~~ In the event any attorney engages in conduct which may warrant discipline or other sanctions, the court or any district judge may, in addition to initiating proceedings for contempt under Title 18, United States Code, and Federal Rule of Criminal Procedure 42, or imposing other appropriate sanctions pursuant to the court's inherent powers or the Federal Rules of Civil or Criminal Procedure, refer the matter for disciplinary proceeding as described in paragraph _____ below.

~~—————(2)———~~ Any attorney admitted to practice in this court who is convicted of a felony in any court of the United States, of the District of Columbia, or of any state, territory, commonwealth, or possession of the United States, must immediately be suspended from practice before this court, whether the conviction resulted from a plea of guilty or nolo contendere or from a verdict after trial or otherwise. The court will issue an order to show cause directing the suspended attorney to demonstrate within thirty (30) days why the attorney should be reinstated to practice before the court during the pendency of any appeal. Upon the felony conviction becoming final, an order of disbarment will be entered unless the attorney can show cause within thirty (30) days after notice and the opportunity to be heard, why disbarment would not be in the interest of justice.

~~—————(3)———~~ Upon the receipt by this court of a certified copy of a judgment or order showing that any attorney admitted to practice before this court has been suspended, disbarred or otherwise disciplined by any other court of the United States or the District of Columbia, or of any state, territory, commonwealth or possession of the United States, this court will notify and issue an order to show cause directing the suspended, disbarred, or otherwise disciplined attorney to demonstrate to this court within thirty (30) days why the imposition of the identical discipline would be unwarranted.

————— Upon the expiration of thirty (30) days after notification and the opportunity to be heard, this court shall impose the identical discipline unless the attorney clearly demonstrates or this court finds that:

—————(A)——— the procedure was so lacking in notice or opportunity to be heard as to constitute a deprivation of due process;

—————(B)——— there was such an absence of proof establishing misconduct that the court would not accept as final the conclusions reached;

~~_____ (C) _____ the imposition of the disciplinary action stated in the order would otherwise result in grave injustice; or~~

~~_____ (D) _____ the misconduct is deemed to warrant substantially different discipline from that stated in the order. _____~~

~~_____ (b) **Conduct Subject to Discipline.** This court may impose discipline on any attorney practicing before this court, whether or not a member of the bar of this court, who engages in conduct violating the Idaho Rules of Professional Conduct, or who fails to comply with rules or orders of this court. The discipline may consist of disbarment from practice before this court, suspension, reprimand, or any other action that the court deems appropriate and just.~~

~~_____ (c) **Initiation of Disciplinary Proceedings.** Whenever a district, magistrate, or bankruptcy judge of this district believes that conduct of an attorney may warrant disbarment, suspension, or a reprimand by the court, such judge may recommend the initiation of disciplinary proceedings by issuing a written recommendation for the initiation of disciplinary proceedings to the chief judge of this district. The chief judge of this district, or another active district judge if the chief judge is the judge recommending such action, shall review the recommendation to determine if reasonable grounds exist for the initiation of disciplinary proceedings. If the chief judge determines that disciplinary proceedings should be initiated, the chief judge shall issue an order to show cause under this rule that identifies the basis for possible discipline.~~

~~_____ (d) **Response.** An attorney against whom an order to show cause is issued shall have twenty-eight (28) days from the date of the order in which to file a response. The attorney may include in the response a request for a hearing on briefs, or for an in-person or telephonic hearing. The failure to include a request for a hearing will be deemed a waiver of any right to a hearing. The failure to file a timely response may result in the imposition of discipline by the chief judge of this district, or his or her district judge designee, without further notice.~~

~~_____ (e) **Hearing on Disciplinary Charges.** If requested by the attorney, and if the hearing judge, in his or her sole discretion, determines that an in-person hearing is warranted, an in-person hearing shall be conducted on the disciplinary charges on the record. If the hearing judge determines that an in-person hearing is not warranted or required, the matter shall be determined by the hearing judge on the record submitted to him or her. The attorney may be represented by counsel who shall file a notice of appearance with the designated judge and with any attorney appointed by the Court to prosecute the matter.~~

~~_____ (f) **Appointment of counsel to prosecute charges.** In appropriate cases, the chief district judge of the district, or if the chief district judge is the complaining judge, an active district judge, may appoint an attorney to prosecute charges of misconduct and shall provide notice of that appointment to the attorney and his counsel, if any. The court may solicit recommendations from the Lawyer Representatives of the District of Idaho as to an appropriate appointment. Actual costs incurred by the attorney prosecuting the charges will be reimbursed from the non-appropriated fund after review and approval by the Board of Judges.~~

~~_____ (g) **Report and Recommendation.** Following the hearing, the judicial officer shall~~

~~prepare a report and recommendation. The report and recommendation shall be served on the attorney, and the attorney shall have twenty-one (21) days from the date of the report and recommendation within which to file a response. If the attorney files a response to the report and recommendation, the report and recommendation, together with the response, shall be presented to a randomly drawn three judge panel of District, Magistrate, or Bankruptcy judges of this district, other than the complaining judge. In its discretion, the panel may call for further submittals or a telephonic hearing. The final order in a disciplinary proceeding where a response has been filed by the attorney, shall be by the three-judge panel. In the absence of a response by the attorney, to the report and recommendation, the final order shall be by the chief district judge, or the designated district judge.~~

~~—————(h)————~~ **Reinstatement.** A suspended or disbarred attorney may file a petition for reinstatement with the clerk of this court. The petition shall contain a concise statement of the circumstances of the disciplinary proceedings, the discipline imposed by the court, and the grounds that justify reinstatement of the attorney. That petition shall be referred to a judicial officer and, if requested by the applicant after the report and recommendation, to a three-judge panel as provided above. The chief district judge shall thereafter rule on the petition, absent a request by the attorney for a three-judge panel.

~~—————(i)————~~ **Confidentiality.** All proceedings under this rule shall be public, except upon an order for good cause shown that confidentiality is appropriate to protect the privacy of the persons involved.

~~—————(j)————~~ **Sanctions.** Nothing in this rule shall limit the power of an individual judge to impose sanctions as authorized under the Federal Rules of Civil or Criminal Procedure or any applicable Bankruptcy Rule.

~~—————(k)————~~ **Other Sanctions.** This rule does not restrict the judges of this district from referring a matter to any bar association for disciplinary action.

RELATED AUTHORITY

None

CRIMINAL RULE 1.1 SCOPE

(a) **Title and Citation.** These rules shall be known as the Local Rules of Criminal Practice before the United States District Court for the District of Idaho. They may be cited as “Dist. Idaho Loc. Crim. R. ____.”

(b) **Effective Date.** These rules became effective on January 1, 2005~~7~~. Any amendments to these rules become effective on the date approved by the Court.

(c) **Scope of Rules.** These rules shall apply to all criminal proceedings in the District of Idaho.

(d) **Relationship to Prior Rules; Actions Pending on Effective Date.** These rules supersede all previous ~~local~~ rules promulgated by this Court or any judge of this Court. They ~~shall~~ govern all applicable proceedings brought in this Court after they take effect. They also ~~shall~~ apply to all proceedings pending at the time they take effect, except to the extent that ~~in the opinion of the Court the~~ ~~their~~ application ~~is not~~ ~~thereof would not be~~ feasible or ~~will~~ ~~would~~ work an injustice, in which event the former rules shall govern.

(e) **Rule of Construction and Definitions.**

(1) Title ~~28~~ ~~18~~, United States Code, Sections ~~2071~~ ~~3771~~ and ~~3772~~, shall, as far as applicable, govern the construction of these rules.

(2) The following definitions shall apply:

(A) “Court.” As used in these rules, the term “~~C~~court” refers to the United States District Court of the District of Idaho, the entire Board of Judges for the District of Idaho, or to a judge or magistrate judge of the Court before whom a proceeding is pending unless the rule expressly refers to a district judge only or to the full Court.

(B) “Clerk.” As used in these rules, the term “Clerk” refers to the Clerk of Court or any deputy clerk designated by the Clerk of Court to act in the capacity of the Clerk.

(f) **Applicability of Local Rules of Civil Practice.** All general provisions of the Local Rules of Civil Practice apply to criminal proceedings unless such provisions are in conflict with or are otherwise provided for by the Federal Rules of Criminal Procedure or the Local Rules of Criminal Practice.

RELATED AUTHORITY

28 U.S.C. § 2071 and Fed. R. Crim. P. 57
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None

CRIMINAL RULE 32.1
INVESTIGATIVE REPORTS BY
UNITED STATES PROBATION OFFICE

(a) Presentence Report, Sentencing Recommendation and Confidentiality.

(1) ~~The Presentence reports are not docketed in criminal cases is a confidential document and are not available for public inspection. During the sentencing hearing, it will be filed with the Clerk of Court under seal. It also~~ They shall not be reproduced or copies distributed to other agencies or other individuals unless permission is granted by the Court or the Chief United States Probation Officer grants permission.

(2) In addition to the presentence report, the probation officer will submit a separate document entitled "Sentencing Recommendation" to the Court. ~~It shall be confidential and~~ The Sentencing Recommendation is for the benefit of the Court and will not be disclosed to the government, ~~or to the defendant, or defendant's counsel or to any other person or party,~~ unless authorized by the sentencing judge, as provided in subsection (3).

(3) The Sentencing Recommendation may be disclosed to the government and defense counsel if authorized by the sentencing judge. Such authorization shall be communicated to the Chief United States Probation Officer in writing or electronically and shall specify whether the authorization applies to all of the individual sentencing judge's cases or to selected cases only. The sentencing judge may revoke the authorization at any time by so notifying the Chief United States Probation Officer in writing or electronically.

(4) If a sentencing is scheduled before a visiting judge, the probation officer shall contact the staff of the visiting judge to determine whether the visiting judge would like the Sentencing Recommendation disclosed to the government and defense counsel.

(5) Probation reports, violation of supervised release reports, and sentencing recommendations prepared for these reports are governed by these same provisions.

(b) Presentence Report.

(1) ~~The Court will set a date of S~~sentencing to shall occur no less than seventy (70) days following the entry of a guilty plea or nolo contendere plea or verdict of guilty. At the time the Court sets the date of sentencing, the sentencing date is set, the Court will advise counsel and the probation office of the dates the presentence report will be disclosed to counsel, the date counsel is to submit any objections to the probation office, and the date on which the presentence report, and any amendments thereto, will be submitted to the Court and counsel. Should counsel or the probation office be unable to comply with the Court's specified dates, they shall will notify the Court forthwith and request a continuance of the sentencing hearing. ~~It is contemplated that in most circumstances, the Court will not formally accept a finding of guilty of a plea until after review of the presentence report.~~

(2) The probation officer shall ~~provide~~ timely ~~notify~~ notification to counsel of the date and place of the initial and subsequent interviews for the presentence report. Counsel shall be provided a reasonable opportunity to attend any interview of the defendant during the course of the presentence investigation.

~~(3) In the event a plea agreement has been entered into between the attorney for the government and the attorney for the defendant, it must be reduced to writing and submitted to the Court prior to entry of the plea of guilty or nolo contendere.~~

~~(3)(4)~~ Not less than thirty-five (35) days prior to the date of sentencing, ~~on the date specified by the Court~~, the probation officer shall disclose the presentence investigation report to the defendant and to counsel for the defendant and the government. Within fourteen (14) days, ~~thereafter, on the date specified by the Court~~, counsel shall file with the Clerk of Court and submit a copy to the probation officer any objections they may have as to any material information, sentencing classifications, sentencing guideline ranges, and policy statements contained in or omitted from the report.

~~(4)(5)~~ After receiving counsel's objections, the probation officer shall conduct any further investigation and make any revisions to the presentence report that may be necessary. The probation officer may request counsel for both parties to meet with the probation officer to discuss unresolved factual and legal issues.

~~(5)(6)~~ Seven (7) days prior to the date of the sentencing hearing, ~~on the date specified by the Court~~, the probation officer shall submit the presentence report to the sentencing judge. The report shall be accompanied by an addendum setting forth any objections counsel may have made that have not been resolved, together with the officer's comments thereon. ~~If the sentencing judge has authorized its disclosure, the Sentencing Recommendation shall be disclosed to counsel for the defendant and the government together with the presentence report and addendum. Counsel shall not be permitted to discuss the Sentencing Recommendation with the probation officer.~~ The probation officer shall certify that the contents of the report, including any revisions thereof, have been disclosed to the defendant and to counsel for the defendant and the government; that the content of the addendum has been communicated to counsel; and that the addendum fairly states any remaining objections.

~~(6)(7)~~ Except with regard to any objection made under subdivision (a) that has not been resolved, ~~the report of the presentence~~ ~~report investigation~~ may be accepted by the Court as accurate. The Court, however, for good cause shown, may allow a new objection to be raised at any time before the imposition of sentence. In resolving disputed issues of fact, the Court may consider any reliable information presented by the probation officer, the defendant, or the government.

~~(7)(8)~~ The times set forth in this rule may be modified by the Court for good cause shown, except that the ~~thirty-five (35) fourteen (14) day period set forth in subsection (b)(3) (4)~~ ~~may only be shortened if the defendant expressly consents.~~ ~~be diminished only with the consent of the defendant.~~

~~(8)(9)~~ Nothing in this rule requires the disclosure of any portions of the presentence report that are not disclosable under Federal Rule of Criminal Procedure 32.

(9)(10) The presentence report shall be deemed to have been disclosed (A) when a copy of the report is physically delivered by hand, fax, or e-mail, (B) one (1) day after the report's availability for inspection is orally communicated to the parties, or (C) three (3) days after a copy of the report or notice of its availability is mailed.

(c) Confidentiality of Probation Records.

(1) Investigative reports and supervision records of this Court maintained by the probation office are confidential and not available for public inspection. However, the Chief Probation Officer may disclose these records to federal, state, or local Courts; correctional and law enforcement agencies; or paroling authorities who have a legal, investigative, or custodial interest in that individual.

(2) Any party, other than those defined in subsection (c)(1), seeking access to the confidential records maintained by the probation office, must file a shall do so by written petition with to the Court establishing with particularity the need for specific information in the records.

(d) Rule Not to Supersede or Void Provisions of Federal Rule of Criminal Procedure 32(c). Nothing in this rule shall be construed to supersede or void the provisions of Fed. R. Crim. P. 32(c)(1). Federal Rule of Criminal Procedure 32(c).

RELATED AUTHORITY

Fed. R. Crim. P. 32

CRIMINAL RULE 58.1
ASSIGNMENT OF CRIMINAL MATTERS
TO MAGISTRATE JUDGES

(a) **Misdemeanor Cases.** All misdemeanor cases shall be assigned, upon the filing of an information or the return of an indictment, to one of the district judges and then delivered to a magistrate judge to conduct the arraignment. **All magistrate judges are specifically designated to exercise misdemeanor jurisdiction.** ~~If consent is given by the defendant~~ **consents to a** for the trial of the case by a magistrate judge, the magistrate judge shall proceed in accordance with the provisions of 18 U.S.C. § 3401 and Fed. R. Crim. P. 58.

(b) **Felony Cases.** Upon the return of an indictment or the filing of an information, all felony cases shall be assigned by the Clerk of Court to one of the district judges and then delivered to a magistrate judge to conduct an arraignment, ~~to appointment of counsel when appropriate, and to resolve~~ other preliminary matters pursuant to the Federal Rules of Criminal Procedure, including entry of the procedural order. Upon receipt of a not guilty plea, the magistrate judge shall **set the matter for trial before the assigned district judge** ~~calendar the case for the assigned judge for the purpose of trial setting.~~ If the defendant advises the magistrate judge that he or she wishes to enter a plea of guilty or nolo contendere, the magistrate judge shall **inform the district judge so the matter can be place on the district judge's calendar.** ~~calendar the case for the assigned district judge for entry of a plea of guilty or nolo contendere.~~

(c) ~~Objections to Magistrate Judge's Orders, Reports, and Recommendations. See~~
~~Dist. Idaho Loc. Civ. R. 72.1(b)(1-3).~~

RELATED AUTHORITY

28 U.S.C. § 636(b)
18 U.S.C. § 3401
Fed. R. Crim. P. ~~48~~ **58**
~~Dist. Idaho Loc. Civ. R. 72.1~~

CRIMINAL RULE 59.1
MAGISTRATE JUDGE RULES

(a) Authority of United States Magistrate Judges in Felony Matters.

(1) Upon referral by a district judge, a magistrate judge shall impanel the grand jury.

(2) A magistrate judge may accept waivers of indictment pursuant to Federal Rule of Criminal Procedure 7(b).

(3) A magistrate judge shall preside over all arraignments, establish deadlines within which parties shall file and respond to pretrial motions, and fix trial dates.

(4) A magistrate judge may conduct plea inquiry hearings pursuant to Fed. R. Crim. P. 11 if a district judge has referred the matter to the magistrate judge, and the defendant, in writing, has waived his or her right to have a district judge take the plea. If, during the hearing, the requirements of Fed. R. Crim. P. 11 are met, the magistrate judge shall:

- (a) Order the probation officer to conduct a presentence investigation and prepare a presentence report pursuant to Fed. R. Crim. P. 32;
- (b) Set deadlines in accordance with Fed. R. Crim. P. 32 for disclosure of the presentence report;
- (c) Set the date for objections and responses to objections;
- (d) Calendar the case for sentencing before the district judge; and
- (e) File a report certifying that the requirements of Fed. R. Crim. P. 11 have been met and recommending that the district court accept the defendant's plea.

(5) A magistrate judge may conduct voir dire and select petit juries if the district court has referred the matter to the magistrate judge for that purpose and the parties have consented in writing.

(6) A magistrate judge may at the request of a district judge, and with the consent of the parties, accept petit jury verdicts, fix dates for imposition of sentence, determine if release pending appeal is appropriate, and set the terms and conditions of that release.

(7) Perform any additional duties not inconsistent with the Constitution and laws of the United States.

(b) Orders and Reports and Recommendations

Objections to an order on a non-dispositive matter or to a report and recommendation on a dispositive matter filed by a magistrate judge shall be filed pursuant to Fed. R. Crim. P. 59 and shall not exceed twenty (20) pages. A party may respond to another party's objections within ten (10) days of being served with a copy of the objections, or at some other time set by the magistrate judge. Any response shall not exceed ten (10) pages.

RELATED AUTHORITY

Fed. R. Crim. P. 59

Fed. R. Crim. P. 11

Fed. R. Crim. P. 32